

Filed: 9/9/2022 11:16 AM
 Lynne Finley
 District Clerk
 Collin County, Texas
 By Amy Mathis Deputy
 Envelope ID: 67094795

219-04231-2022

CAUSE NO. _____

DENISE COX	§	IN THE DISTRICT COURT
PLAINTIFF,	§	
	§	_____ JUDICIAL DISTRICT
VS.	§	
	§	
WAL-MART STORES TEXAS, LLC,	§	
DEFENDANT.	§	COLLIN COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff, **DENISE COX**, and files this Original Petition against Defendant, **WAL-MART STORES TEXAS, LLC**, and in support thereof would respectfully show the Court as follows:

I. DISCOVERY-CONTROL PLAN

1.01 Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 because Plaintiff seeks monetary relief of over \$1,000,000.00.

II. CLAIM FOR RELIEF UNDER RULE 47 T.R.C.P.

2.01 Pursuant to Texas Rules of Civil Procedure 193.7, notice is hereby given of the intention to use any of the documents exchanged and/or produced between any party during the trial of this case. All conditions precedent to Plaintiff's right to recover the relief sought herein have occurred or have been performed.

2.02 As required by Rule 47(b), Texas Rules of Civil Procedure, Plaintiff states that the damages sought are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c), Texas Rules of Civil Procedure, Plaintiffs state that Plaintiff seeks monetary relief in an amount of more than \$1,000,000. As discovery progresses, Plaintiff will be able to more accurately determine the amount they seek to recover.

III. PARTIES

3.01 Plaintiff, **DENISE COX**, is an individual residing in Collin County. The last three digits of the social security number of DENISE COX are 862.

3.02 Defendant, **WAL-MART STORES TEXAS, LLC**, is a foreign corporation registered to do business in Texas and having a location located at 425 Coit Road Plano, Texas 75075, and may be served with process through its registered agent, CT Corporation System 1999 Bryan St., Suite 900 Dallas, Texas 75201.

IV. JURISDICTION AND VENUE

4.01 Venue proper in Collin County under Texas Civil Practice & Remedies Code section 15.002 because all or a substantial part of the events or omissions giving rise to the claim occurred in Collin County.

4.02 The Court has jurisdiction over Plaintiff because he is a resident of Texas and Defendant because they are a corporation registered to do business in Texas. Venue of this case is proper in Collin County, Texas because it is where the underlying events that led to this lawsuit occurred. The subject-matter in controversy is within the jurisdictional limits of this court.

V. FACTS

5.01 On August 23, 2020, Plaintiff Denise Cox was shopping at the Wal-Mart store located at 425 Coit Road Plano, Texas 75075 at Defendant's invitation. While Plaintiff was shopping in Defendant's store, Plaintiff slipped and fell in a red liquid (hereinafter referred to as "the fall").

VI. PREMISES LIABILITY CLAIM BY INVITEE

6.01 Defendant was in possession of the premises at 425 Coit Road Plano, Texas 75075, on the date of the accident.

6.02 Plaintiff entered Defendant's premises in response to Defendant's invitation and for the mutual benefit of Defendant and Plaintiff.

6.03 A condition on Defendant's premises posed an unreasonable risk of harm. Specifically, red liquid on the ground on Defendant's premises.

6.04 Defendant knew or reasonably should have known of the dangerous condition within the store.

6.05 Defendant had a duty to use ordinary care to ensure that the premises did not present a danger to Plaintiff. This duty includes the duty to inspect and the duty to warn or to cure. Defendant breached the duty of ordinary care by:

- a. Failing to exercise ordinary care in maintaining the premises in a reasonably safe condition;
- b. Failing to exercise reasonable care to reduce or eliminate the risk to invitees, such as the Plaintiff, of unreasonably dangerous conditions;
- c. Failing to warn invitees, such as the Plaintiff, of the unreasonably dangerous condition, namely the red liquid on the premises;
- d. Creating and causing an unreasonably dangerous condition to exist on the subject premises;
- e. Failing to use reasonable care in supervising their employees to ensure they are competent in locating, cleaning, preventing, removing and/or warning of unreasonably dangerous conditions; and
- f. Failing to recognize and correct a dangerous condition.

6.06 Each of these acts and omissions, singularly, or in combination with others, constituted negligence which proximately caused the occurrence made the basis of Plaintiff's injuries and the damages claimed herein.

VII. RESPONDEAT SUPERIOR

7.01 At all times material to this petition, the staff at the premises at issue were employees or agents of Defendant. The acts of the staff fall within the course and scope of employment with the Defendant. The Defendant is liable for the negligent acts and omissions of their employees and agents under the doctrine of vicarious liability or respondeat superior.

7.02 Plaintiff seeks damages within the jurisdictional limits of this Court.

VIII. DAMAGES

8.01 Defendants breach of duty proximately caused injury to Plaintiff, which resulted in the following damages:

- a. Medical Expenses: Denise Cox incurred bodily injuries, which were proximately caused by the fall and Denise Cox incurred medical expenses for treatment of such injuries. Denise Cox believes that, in reasonable medical probability such injuries will require the need for future medical care.
- b. Physical Pain: Denise Cox endured physical pain as a result of the personal injuries sustained in The Fall and reasonably anticipate that such pain will continue in the future.
- c. Mental anguish: Denise Cox endured mental anguish as a result of the personal injuries sustained in The Fall and reasonably anticipate such pain will continue in the future.

- d. Disfigurement: Denise Cox endured disfigurement as a result of the personal injuries sustained in The Fall and reasonably anticipate such will continue in the future.
- e. Impairment: Denise Cox endured physical impairment as a result of the personal injuries sustained in The Fall and reasonably anticipate such in the future.
- f. Loss of Earning Capacity: Denise Cox reasonably believes that such injuries will diminish Plaintiff's earning capacity in the future.
- g. Loss of Enjoyment of Life: Denise Cox endured a loss of enjoyment of life as a result of the personal injuries sustained in The Fall and reasonably anticipate such loss will continue in the future.

IX. AGGRAVATION

9.01 In the alternative, if it be shown that the Plaintiffs suffered from any pre-existing injury, disease, and/or condition at the time of The Fall made the basis of this lawsuit, then such injury, disease, and/or condition was aggravated and/or exacerbated by the negligence of the Defendants.

X. U.S. LIFE TABLES

10.01 Notice is hereby given to the Defendants that Plaintiffs intend to use the U.S. Life Tables as published by the Department of Health and Human Services – National Vital Statistics Report in the trial of this matter. Plaintiffs request that the Honorable Court take judicial notice of those regulations, and statutes of the United States and the State of Texas, pursuant to Texas Rule of Evidence 201 and 1005.

XI. TEXAS RULES OF EVIDENCE 609(F) REQUEST

11.01 Plaintiff requests, pursuant to Texas Rules of Evidence 609(f), that Defendants give Plaintiff sufficient advanced written notice of Plaintiff's intent to use evidence of a conviction of a crime under Rule 609(f) against any party or witness in this case, with failure to do so resulting in inadmissibility of the same.

XII. DESIGNATED E-SERVICE EMAIL ADDRESS

12.01 The following is the undersigned attorney's designated e-Service email address for all e- served documents and notices, filed and unfiled, pursuant to Tex. R. Civ. P. 21(f)(2) & 21a: E-Service@KTCLAWFIRM.com. This is the undersigned's only e-Service email address, and service through any other email address will be considered invalid.

XIII. MISNOMER, ALTER-EGO, ASSUMED NAME

13.01 In the event any parties are misnamed or not included herein, it is Plaintiff's contention that such was a "misnomer" and/or such parties are/were "alter egos" of parties named herein. Plaintiff relies upon Vernon's Texas Revised Civil Statutes Annotated, Art 6133, et seq., and Rule 28 of the TEXAS RULES OF CIVIL PROCEDURE in order to properly identify the Defendant herein.

XIV. PRAYER

14.01 For these reasons, Plaintiff asks that the Court issue citation for Defendant to appear and answer, and that Plaintiff be awarded a judgment against Defendant for the following:

- a. Judgment against Defendant for a sum within the jurisdictional limits of this Court for the damages set forth herein;
- b. Pre-judgment interest at the maximum amount allowed by law;
- c. Post-judgment interest at the maximum rate allowed by law;

- d. Costs of suit;
- e. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully Submitted,

The Law Offices of Kelly T. Curran

BY: _____

Tesha L. Williams

State Bar No. 24108933

5720 LBJ Fwy., Ste. 440

Dallas, Texas 75240

Phone: (469) 730-3007

Fax: (469) 458-2993

Email Tesha@ktclawfirm.com

E-serve ktclawfirm@gmail.com

E-Service@KTCLAWFIRM.com

ATTORNEY FOR PLAINTIFF

THE STATE OF TEXAS
CIVIL CITATION
CASE NO.219-04231-2022

Denise Cox vs. Wal-Mart Stores Texas LLC

In the 219th District Court
Of Collin County, Texas

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

TO: Wal-Mart Stores Texas LLC, by serving Registered Agent CT Corporation System, 1999 Bryan Street Ste 900, Dallas TX 75201, Defendant

GREETINGS: You are commanded to appear by filing a written answer to **Plaintiff's Original Petition** at or before ten o'clock A.M. on the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable 219th District Court of Collin County, Texas at the Courthouse of said County in McKinney, Texas.

Said Plaintiff's Petition was filed in said court, by Tesha L Williams The Law Offices of Kelly T Curran 5720 LBJ Freeway Suite 440 Dallas TX 75240 (Attorney for Plaintiff or Plaintiffs), on August 09, 2022, in this case, numbered 219-04231-2022 on the docket of said court.

The nature of Plaintiff's demand is fully shown by a true and correct copy of **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

Issued and given under my hand and seal of said Court at McKinney, Texas, on this the 10th day of August, 2022.

ATTEST: Lynne Finley, District Clerk
Collin County, Texas
Collin County Courthouse
2100 Bloomdale Road
McKinney, Texas 75071
972-548-4320, Metro 972-424-1460 ext. 4320



By: Amy Mathis, Deputy
Amy Mathis

The law prohibits the Judge and the clerks from giving legal advice, so please do not seek legal advice. Any questions you have should be directed to an attorney.

Filed: 8/16/2022 2:31 PM
Lynne Finley
District Clerk
Collin County, Texas
By Suzanne Rogers Deputy
Envelope ID: 67345961

CAUSE NO. 219-04231-2022

RETURN

Came to my hand: August 10, 2022 at 12:47 p.m.

To: **Wal-Mart Stores Texas, LLC**

☒ Citation
☒ Plaintiff's Original Petition and Jury Demand

Delivered by me on: **August 10, 2022 at 2:15 p.m.**

Delivered by me at: 1999 Bryan Street, Suite 900, Dallas, Texas 75201, by delivering to **Wal-Mart Stores Texas, LLC**, by delivering to its Registered Agent, CT Corporation System, by delivering to an employee available at the registered office during normal business hours, Terri Thongsavat, in person, a true copy of the above specified civil process, having first endorsed on such copy the date of delivery. I am over eighteen (18) years of age and not a party to or interested in the outcome of this case. This return is attached to original process or a copy thereof. All statements and facts herein contained are within my personal knowledge.

"My name is Alan Rodi Davis. My date of birth is 8/25/62. My address is P.O. Box 38066, Dallas, Texas, 75238, United States of America. I declare under penalty of perjury the foregoing is true and correct. Executed in Dallas County, Texas on August 16, 2022.



Alan Rodi Davis, Authorized Person, Declarant" PSC-399, Expires 7/31/24

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Kelly Curran on behalf of Tesha Williams

Bar No. 24108933

E-Service@ktclawfirm.com

Envelope ID: 67345961

Status as of 8/16/2022 3:06 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
E- Service		e-service@ktclawfirm.com	8/16/2022 2:31:17 PM	SENT
Tesha L.Williams		Tesha@ktclawfirm.com	8/16/2022 2:31:17 PM	SENT
Christine Torres		christine@ktclawfirm.com	8/16/2022 2:31:17 PM	SENT

CAUSE NO. 219-04231-2022

DENISE COX	§	IN THE DISTRICT COURT
	§	
VS.	§	COLLIN COUNTY, TEXAS
	§	
WAL-MART STORES TEXAS, LLC	§	219TH JUDICIAL DISTRICT

DEFENDANT'S ORIGINAL ANSWER**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, Wal-Mart Stores Texas, LLC, Defendant in the above-referenced cause, and files this its Original Answer and respectfully shows the Court the following:

I.
GENERAL DENIAL

Defendant generally denies each and every allegation contained in Plaintiff's Original Petition and demands strict proof thereof by preponderance of the credible evidence.

II.
RULE 193.7 NOTICE

Pursuant to Texas Rules of Civil Procedure 193.7, Defendant provides notice that it intends to use Plaintiff's production of all documents, tangible things and discovery items produced in response to discovery in any pre-trial proceeding or at trial.

III.
JURY DEMAND

Defendant further demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by this suit, that Defendant recover its costs, and for such other and further relief to which Defendant may be justly entitled at law or in equity.

Respectfully submitted,

COBB MARTINEZ WOODWARD PLLC

1700 Pacific Avenue, Suite 3100

Dallas, Texas 75201

(214) 220-5210

(214) 220-5299 (Fax)

By: /s/ Stacy Hoffman Bruce

STACY HOFFMAN BRUCE

Texas Bar No. 24036793

sbruce@cobbmartinez.com

JOSHUA VILLARREAL

Texas Bar No. 24125871

jvillarreal@cobbmartinez.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been forwarded to the following counsel of record either by telefax, certified mail, return receipt requested, e-mail and/or regular U.S. mail on this 1st day of September, 2022.

Tesha L. Williams
The Law Offices of Kelly T. Curran
5720 LBJ Freeway, Suite 440
Dallas, TX 75240

/s/ Stacy Hoffman Bruce

STACY HOFFMAN BRUCE

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Missy Ramirez on behalf of Stacy Bruce

Bar No. 24036793

mramirez@cobbmartinez.com

Envelope ID: 67907365

Status as of 9/2/2022 8:30 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
E- Service		e-service@ktclawfirm.com	9/1/2022 5:28:38 PM	SENT
Tesha L.Williams		Tesha@ktclawfirm.com	9/1/2022 5:28:38 PM	SENT
Christine Torres		christine@ktclawfirm.com	9/1/2022 5:28:38 PM	SENT
Chaunte Busby		cbusby@cobbmartinez.com	9/1/2022 5:28:38 PM	SENT
Josh Villarreal		jvillarreal@cobbmartinez.com	9/1/2022 5:28:38 PM	SENT
Missy Ramirez		mramirez@cobbmartinez.com	9/1/2022 5:28:38 PM	SENT
Stacy H.Bruce		sbruce@cobbmartinez.com	9/1/2022 5:28:38 PM	SENT